

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To:

**PCT**

**TRANSLATION**

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing (day/month/year) <b>See Form PCT/ISA/210 (sheet 2)</b>		
Applicant's or agent's file reference <b>CL-1/04 PCT</b>		
<b>FOR FURTHER ACTION</b> See paragraph 2 below		
International application No. <b>PCT/DE2005/000011</b>	International filing date (day/month/year) <b>07.01.2005</b>	Priority date (day/month/year) <b>09.01.2004</b>
International Patent Classification (IPC) or both national classification and IPC <b>A61C17/08, A61B1/247</b>		
Applicant <b>CLASEN, Stephan</b>		

1. This opinion contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the opinion
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input checked="" type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input checked="" type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP	Authorized officer
Facsimile No.	Telephone No.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/DE2005/000011

Box No. I      Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐

This opinion has been established on the basis of a translation from the original language into the following language

\_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐

a sequence listing

☐

table(s) related to the sequence listing

b. format of material

☐

in written format

☐

in computer readable form

c. time of filing/furnishing

☐

contained in the international application as filed.

☐

filed together with the international application in computer readable form.

☐

furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/DE2005/000011

Box No. IV

Lack of unity of invention

1. ☐ In response to the invitation (Form PCT/ISA/206) to pay additional fees the applicant has:
- ☐ paid additional fees
  - ☐ paid additional fees under protest
  - ☐ not paid additional fees
2. ☒ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is
- ☐ complied with
  - ☒ not complied with for the following reasons:
- The different inventions are:
- First invention: claims: 1-9      Dental aspirator with a mirrored surface.
- Second invention: claim 10:      Dental aspirator with a deformable base plate.
- For the following reasons, these inventions are not sufficiently related to form a single, general inventive idea (PCT Rule 13.1):
- Document FR 2 595 939 (D1) discloses (the references in parentheses refer to this document): A dental aspirator to extract liquid and debris from the mouth of a patient during treatment, having a hollow base plate(1) with a longitudinal axis, having an outer surface, an inner surface and a suction opening, wherein a mirrored surface (3) is arranged at
- (see supplemental sheet)
4. Consequently, this opinion has been established in respect of the following parts of the international application:
- ☒ all parts
  - ☐ the parts relating to claims Nos. \_\_\_\_\_

## International application No.

Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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## Novelty (N)

YES

NO

## Claims

**YES**

NO

## Claims

YES

## Claims

NO

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Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

aspirator for extracting liquid and debris from the mouth of a patient during treatment, having a hollow base plate (1) with a longitudinal axis, having an outer surface, an inner surface and a suction opening, wherein a mirrored surface (3) is arranged at the suction opening such that at least some areas of the oral cavity are visible (page 1 line 10-22).

- 2.2 The subject matter of claim 1 is also known from document D2 (see column 6, lines 43-56 and figures 1, 4).

3 DEPENDENT CLAIMS 2-9

Claims 2-9 do not contain any features, which in combination with the features of any claim to which they refer, meet the requirements of the PCT with regard to novelty or inventive step.

- 3.1 D2 discloses a releasable attachment (claim 4) see column 5, lines 14-17).

- 3.2 Document D3 (see page 3 lines 9-13) discloses an aspirator with a deformable base plate (claim 6) made of flexible, plastic material (claim 7).

- 3.3 Document D4 (see column 3 lines 5-32) discloses an aspirator with a ball and socket joint (claim 8).

- 3.4 An aspirator with a light source (claim 9) is known from document D5 (see figures 2 and 4).

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Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;  
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3.5 The features of claims 2 and 3 concern only minor structural modifications of the kind that a person skilled in the art routinely makes on the basis of familiar considerations, especially since the resulting advantages are readily foreseeable. Consequently, the subject matter of claims 2 and 3 is not based on an inventive step.

**Second invention**

INDEPENDENT CLAIM 10

4.1 The present application fails to comply with the requirements of PCT Article 33(1) since the subject matter of claim 10 is not novel within the meaning of PCT Article 33(2).

Document D3 discloses (the references in parentheses refer to this document) a dental aspirator for extracting liquid and debris from the mouth of a patient during treatment, having a hollow base plate (10) with a longitudinal axis, having an outer surface, an inner surface and a suction opening, wherein the base plate (10) is deformable in a longitudinal direction such that the course of the longitudinal axis can be changed (see page 3 lines 9-13).

4.2 The subject matter of claim 10 is also known from document D4 (see column 3 lines 5-32).

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INTERNATIONAL SEARCHING AUTHORITY

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Box No. VI      Certain documents cited

1.    Certain published documents (Rule 43bis.1 and 70.10)

Application No.  
Patent No.

Publication date  
(day/month/year)

Filing date  
(day/month/year)

Priority date (valid claim)  
(day/month/year)

2.    Non-written disclosures (Rule 43bis.1 and 70.9)

Kind of non-written disclosure

Date of non-written disclosure  
(day/month/year)

Date of written disclosure  
referring to non-written disclosure  
(day/month/year)

see form 210



WRITTEN OPINION OF THE  
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International application No.

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

**Box IV.**

the suction opening such that at least some areas of the oral cavity are visible (page 1 line 10-22).

Claim 1 does not contain any special technical feature (PCT Rule 13.2).

The subject matter of claim 10 differs from the aspirator known from D1 in that the base plate is deformable. This feature is considered to be the special technical feature of the second invention.

The first and second inventions do not have any common or corresponding special technical features. The requirements for unity are therefore not met.

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INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/DE2005/000011

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	2, 3, 5, 6, 7, 8, 9	YES
	Claims	1, 4, 10	NO
Inventive step (IS)	Claims		YES
	Claims	1-10	NO
Industrial applicability (IA)	Claims	1-10	YES
	Claims		NO

2. Citations and explanations:

1. Reference is made to the following documents:

D1: FR 2 595 939 A (LUZZATO MICHEL) 25 September 1987 (1987-09-25)  
D2: US 5 490 780 A (RIEWENHERM ET AL) 13 February 1996 (1996-02-13)  
D3: EP A 0 003 470 (ORSING, INC) 8 August 1979 (1979-08-08)  
D4: US A 5 743 736 (FOLKO ET AL) 28 April 1998 (1998-04-28)  
D5: DE 100 65 705 A1 (KALTENBACH & VOIGT GMBH & CO) 24 January 2002 (2002-01-24)

**First invention:**

2. INDEPENDENT CLAIM 1

2.1 The present application fails to comply with the requirements of PCT Article 33(1) since the subject matter of claim 1 is not novel within the meaning of PCT Article 33(2).

Documents D1 discloses (the references in parentheses refer to this document): A dental

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International application No.

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Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;  
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aspirator for extracting liquid and debris from the mouth of a patient during treatment, having a hollow base plate (1) with a longitudinal axis, having an outer surface, an inner surface and a suction opening, wherein a mirrored surface (3) is arranged at the suction opening such that at least some areas of the oral cavity are visible (page 1 line 10-22).

- 2.2 The subject matter of claim 1 is also known from document D2 (see column 6, lines 43-56 and figures 1, 4).

3 DEPENDENT CLAIMS 2-9

Claims 2-9 do not contain any features, which in combination with the features of any claim to which they refer, meet the requirements of the PCT with regard to novelty or inventive step.

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3.5 The features of claims 2 and 3 concern only minor structural modifications of the kind that a person skilled in the art routinely makes on the basis of familiar considerations, especially since the resulting advantages are readily foreseeable. Consequently, the subject matter of claims 2 and 3 is not based on an inventive step.

**Second invention**

INDEPENDENT CLAIM 10

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INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/DE2005/000011

Box No. VI

Certain documents cited

1. Certain published documents (Rule 43bis.1 and 70.10).

Application No.  
Patent No.

Publication date  
(day/month/year)

Filing date  
(day/month/year)

Priority date (valid claim)  
(day/month/year)

2. Non-written disclosures (Rule 43bis.1 and 70.9)

Kind of non-written disclosure

Date of non-written disclosure  
(day/month/year)

Date of written disclosure  
referring to non-written disclosure  
(day/month/year)

see form 210

WRITTEN OPINION OF THE  
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Supplemental Box

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Continuation of:

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